

DEPOSITION OF LARRY LEE WALKER

March 12, 2008

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
NORTHERN DIVISION

LARRY L. WALKER and wife,
CYNTHIA WALKER,

Plaintiffs,

vs.

LOUISVILLE LADDER, INC.

Defendant.

NO. 3:07-CV-377

COPY

APPEARANCES:

FOR THE PLAINTIFFS:

W. Holt Smith
Attorney at Law
209 Tellico Street
Madisonville, Tennessee 37354

ALSO FOR THE PLAINTIFFS:

Timothy Bobo
Attorney at Law
108 S. Main Street
Clinton, Tennessee 37717

FOR THE DEFENDANT:

John Tate
Attorney at Law
400 West Market Street
Suite 1800
Louisville, Kentucky 40202

1 A. Yeah. Well, the teacher would be in
2 there. The teacher would always be at their desk or
3 something.

4 Q. But you didn't ask any of the teachers
5 to steady the ladder for you?

6 A. No, I didn't.

7 Q. Tell me what happened on the day of
8 your accident.

9 A. Well, Jessica come and told me she
10 thought some of the kids had tobacco or dope or
11 something hid in the ceiling. There was too much
12 activity going on in the bathroom. She asked me if I
13 would come up there and look and see. I told her,
14 yeah, I said now that they are down there at the lunch
15 room eating lunch and nobody in there. I said you
16 will be there, ain't you. She said yeah. So I just
17 got the ladder and we walked up the hall together.

18 The bathroom doors are on automatic shutters.
19 Well, she was standing there holding the door for me.
20 I just set the ladder up and climbed up there and
21 pushed one of the ceiling tiles up and slid it over.
22 I had a little plastic flashlight, one of those little
23 two cell battery lights. I stuck my head up through
24 the ceiling and shined the light. I was just fixing
25 to start down, and I felt the ladder move. I thought

1 oh Lord this is going to be bad. I reached to try to
2 put my hand on top of it where I could get down. It
3 was just like that made it get faster. And then I
4 remember it slamming me back against the wall. And
5 then when I hit the floor, I don't know how long I was
6 out. But when I come to Jessica was still standing
7 there holding the door open. I said go call somebody.
8 She said who do you want me to call. I said, honey,
9 get me some help in here. I don't care if you call
10 Bill Clinton or anybody. I said I broke my neck. At
11 the time I thought I had, because I couldn't move my
12 neck. And this arm, I couldn't move it. I thought,
13 boy, I have messed up bad this time.

14 And then she took out of the room. I just
15 assumed she went out there and called the office and
16 got Marsha to come up there. Well, she forgot she
17 even had a had phone in her room, and her room was the
18 farthest point from the office. She ran all the way
19 to the office and got Marsha, and they come up there.
20 Marsha hollered and told them to call 911 because
21 where that flashlight hit me in the head, it put
22 little cuts in my head and I was bleeding. So they
23 called and got the ambulance and them there. I
24 couldn't breath and stuff. I guess it was where it
25 broke my ribs and stuff, I was having a hard time

1 breathing. And then the ambulance drivers, they made
2 the decision to call in Med Flight, the helicopter,
3 and they flew me to UT. I come to just a few minutes
4 before the helicopter set down over there at UT. They
5 told me they was about a minute from setting down. I
6 thought to myself, well, they got me here quick. But
7 I don't know what happened in between times. After
8 they got me on the helicopter they gave me medicine
9 and stuff. But they said they wasn't allowed to give
10 it until they got me on up in the helicopter. When
11 they got me on there, they started an IV and gave me
12 some kind of medicine. I don't remember much else
13 until I woke up the next morning and was in all kinds
14 of pain. But that's basically all I remember of what
15 happened. I said, boy, this is going to be bad.

16 Q. Dr. Renfree who operated on you, was he
17 at UT?

18 A. No, sir. He's at Oak Ridge. The one
19 that operated on my arm, yes, sir, he's at UT. I
20 can't think of his name.

21 MR. SMITH: McCullom?

22 THE WITNESS: Yeah, Dr. McCollum. He
23 put the bone back together and stuff, put
24 a plate in it. And then I went to
25 Dr. Renfree. They went to sending me to

1 A. Yeah. No, it didn't come off of the
2 floor.

3 Q. So it's your testimony that at no time
4 as you climbed the first three steps in the way that
5 you described, at no time did any of the feet leave
6 contact with the floor?

7 A. No.

8 Q. They did not?

9 A. No.

10 Q. You're sure?

11 A. Yeah.

12 Q. You have told us already how you
13 removed the ceiling tile. And you removed the ceiling
14 tile while you were on that third step?

15 A. Yeah.

16 Q. And then you moved up one to the step
17 where your hand is now?

18 A. Yeah.

19 Q. Did you climb to that fourth step the
20 same way that you climbed the first three?

21 A. Yeah, had my hand on the top of the
22 ladder up here. I held onto the top and went up to
23 that.

24 Q. Did you hold on at any point in time to
25 the ceiling tiles?

1 A. I had my hand against the wall. I was
2 holding against that wall.

3 Q. The wall that was on your right?

4 A. Yeah.

5 Q. So if you had one hand against the
6 wall, where was your left hand?

7 A. I was getting the flashlight out of my
8 pocket. I got it out and was shining it around.

9 Q. All right. You have already described
10 the ceiling tile part and the inspection up in the
11 ceiling. I believe you said you were going to start
12 down the ladder; is that right?

13 A. Yeah, I was about ready to start down.

14 Q. Let's put your feet, using your hands,
15 together on the step that you were standing before you
16 started down; all right?

17 A. Yeah.

18 Q. Here's is my question. Do you recall
19 where you had in fact moved either one of your feet in
20 anticipation of starting down the ladder before you
21 fell?

22 A. No.

23 Q. You don't recall?

24 A. No, I don't recall it.

25 Q. Do you think you were still on that

1 step, or approximately?

2 A. Approximately I believe that I was.
3 When I felt the ladder move, I tried to get this hand
4 here on top up here, and I never did make it.

5 Q. Where were your hands at the moment
6 that you first felt some movement in the ladder?

7 A. One was holding against the wall, and
8 the other one holding the flashlight. And when it
9 moved I started to get this, but it was done too late.

10 Q. Your right hand was against the wall to
11 your right?

12 A. Yeah. This hand -- I can't get this
13 one up that high. But anyway, I tried to reach down
14 with this hand.

15 Q. You left hand?

16 A. Yeah, my left hand to balance.

17 Q. In the moment that you first felt the
18 ladder move, your right hand was against the wall to
19 your right, correct?

20 A. Yeah.

21 Q. And your left hand was holding the
22 flashlight?

23 A. Yeah.

24 Q. Was the flashlight still up in the dark
25 space?

1 A. Yeah.

2 Q. Above the ceiling?

3 A. Yeah.

4 Q. So you were thinking about coming down
5 the ladder?

6 A. Yeah, I was already getting ready to
7 start down.

8 Q. Before you felt movement had you moved
9 your right hand to the wall in anticipation of
10 starting down?

11 A. No.

12 Q. Had you right hand been holding on to
13 the top of the ladder before that?

14 A. Yeah, when I went up it was.

15 Q. When you're standing up there looking,
16 we know that one hand has a flashlight in it?

17 A. Yeah.

18 Q. Which hand is that?

19 A. My left one.

20 Q. Are you left-handed or right-handed?

21 A. I'm left-handed.

22 Q. So your left hand is holding the
23 flashlight?

24 A. Yeah.

25 Q. While you are looking up there, are you

1 holding on to the ladder with your right hand?

2 A. No. I had my hand against the wall.

3 Q. The whole time you were looking you had
4 your hand against the wall?

5 A. Until I turned my head, and then I --
6 when I got ready to come down, then I put my hand on
7 it. And that's when it all broke loose. That's when
8 the ladder moved.

9 Q. I'm a little confused. Let me make
10 sure I understand. While you are inspecting with the
11 flashlight in your left hand, do you have your right
12 hand on top of the ladder, against the wall, on the
13 ceiling, or where is your right hand while you're
14 inspecting with your left?

15 A. Well, at one point it was on the wall.
16 And then next I put it up here. And then when I felt
17 the ladder move, I grabbed the wall. I still had the
18 flashlight. I turned it loose, and then that's when
19 it -- I tried to get this hand up here on that, but I
20 didn't make it until it done had me in the floor.

21 Q. So it was some sense of movement in the
22 ladder that prompted you to put your right hand
23 against the wall?

24 A. Yeah.

25 Q. As if to brace yourself?

1 A. Yeah, to hold myself steady.

2 Q. Was it a slight movement of the ladder
3 that caused you to do that, or was it a great, big
4 movement?

5 A. Well, the ladder moved and then that's
6 when I grabbed the wall.

7 Q. It's kind of hard to grab a wall?

8 A. Yeah, or to hold to it. It wore the
9 hide off my fingers falling.

10 Q. But you just put your hand flat against
11 the wall?

12 A. Yeah, flat against the wall.

13 Q. If you used these books here, show us
14 how you put your hand against the wall.

15 A. Like this.

16 Q. All right. At that moment in time you
17 have got the flashlight in your left hand, you have
18 put your right hand against the wall to try to brace
19 yourself, right?

20 A. Yes, sir.

21 Q. What did you feel happen next?

22 A. I just felt the ladder twisting. It
23 just like throwed me off and slammed me against the
24 wall.

25 Q. Which direction did the ladder go, did